



48895/B

6723

AN
ADDRESS
BY
THE SOCIETY OF APOTHECARIES,
TO THE
GENERAL PRACTITIONERS
OF ENGLAND AND WALES,
ON THE PROVISIONS OF
THE BILL
“FOR THE BETTER REGULATION OF MEDICAL PRACTICE
THROUGHOUT THE UNITED KINGDOM,”
AND
THEIR PROBABLE INFLUENCE ON THE POSITION AND PROSPECTS
OF THAT BRANCH OF
THE MEDICAL PROFESSION.

LONDON:
PUBLISHED BY
SAMUEL HIGHLEY, 32, FLEET STREET.

1844.

LONDON:
GILBERT & RIVINGTON, PRINTERS,
ST. JOHN'S SQUARE.



AN ADDRESS
TO THE
GENERAL PRACTITIONERS
OF
ENGLAND AND WALES.

At the close of the last session of Parliament, Her Majesty's Secretary of State for the Home Department, introduced into the House of Commons, a Bill "for the better Regulation of Medical Practice throughout the United Kingdom." Notice of the intention to introduce such a measure had been formally given at an early period of the session; and, although the nature of its provisions had not been allowed to transpire, the general scope and tendency of the Bill was in some measure anticipated, and what were supposed to be some of its leading features became the subject of very general discussion. The Society of Apothecaries were frequently urged to state their views upon the expected changes, particularly such of them as bore more immediately on

the interests of their own branch of the profession ; but feeling that the proper time for discussing the provisions of the forthcoming measure would be when the Bill itself was before Parliament, they were at first indisposed to express any opinion on the subject. Finding, however, as the session advanced, that a desire existed on the part of many of their medical brethren, to benefit by the experience which the Society had acquired by their administration of the Act of 1815, and to learn the opinion which the Society had been led to form upon some of the leading features of the Bill ; and finding moreover that upon two points of vital importance, much misapprehension existed ; the Society prepared a statement of their administration of the Apothecaries' Act, with especial reference to the points in question.

An apprehension very generally prevailed, that the Bill would exclude the general practitioner from all real control and influence in the education and examination of his own class ; and that it would assert the inexpediency of any penal check being imposed upon the practice of incompetent persons.

The Society stated their opinion, that the interests of the profession and the public alike demanded that the education and examination of the general practitioner should be intrusted to those of his own class, and their conviction that some penal check upon unqualified practice was essential to the efficiency of any measure of medical reform ; and they

did not hesitate to predict, that if the apprehension which existed, as to the principle of the Bill in these respects, should prove well founded, the measure would seriously disappoint the hopes of the general practitioners of this country, and the expectations of the Legislature and the public.

In support of these views the Society referred with feelings of the highest satisfaction to the beneficial working of the Act of 1815, as evidenced by the marked improvement in the character and attainments of the general practitioner; and the Society confidently argued from the success which had attended the labours of a Court of Examiners, composed exclusively of general practitioners, not only that no injury to the public would result from the general practitioner being intrusted with the education of his own branch of the profession; but that if it was important to the public welfare that the general practitioner should be highly qualified for the discharge of his important duties, that object would be best attained by leaving the control of his education with the members of his own class, who had every motive and inducement to raise its character, and extend the sphere of its usefulness.

The Society's statement was placed in the hands of every member of the Legislature, and was extensively circulated among all branches of the medical profession.

Upon the introduction of the Bill itself, the Society felt called upon to state publicly and unreservedly,

the impression which a perusal of its provisions had produced upon their minds, and it was with unfeigned regret that they found themselves compelled to admit that the Bill fully realized the apprehension which had been generally entertained with respect to it. The Society stated, that in their judgment its scope and tendency was to degrade, if not to destroy the class of general practitioners, by taking away from them the control over the education and examination of their own class, by repealing the existing checks upon the practice of unqualified persons, and substituting no provisions by which such persons might be prevented from practising in future. The Society at the same time proposed to themselves the duty of a deliberate examination of the provisions of the Bill, and promised, at a proper season, to offer an opinion upon the whole measure in a more detailed form.

In redeeming this pledge, and proceeding to lay before their professional brethren the result of a careful examination of a measure, having no less an object than the better regulation of the practice of medicine throughout the United Kingdom, the Society approach the subject with a deep conviction of its importance, and with a sincere desire to enter upon its consideration with the temper and calmness which its importance demands. They have already publicly stated that they would hail with the utmost satisfaction the introduction of a measure, under the high auspices of a Minister of the Crown,

which would have the effect of removing the anomalies which at present exist in the profession, and of healing the dissensions to which those anomalies have given rise. They gladly avail themselves of this opportunity of repeating that statement. They have observed with pleasure, and cheerfully admit, the existence of features in the present Bill which must in their opinion find a place in any well-considered measure of medical reform; for instance, the establishment of a Council of Health, uniformity of education and reciprocity of practice in the three kingdoms, and a general registration of all qualified practitioners. They have no wish to overlook these features; but believing, as they do, that the direct tendency of the Bill, as a whole, will be to degrade, and eventually to destroy the class of general practitioners of this country, the Society would feel themselves unworthy of the trust which they have so long held, if they shrunk from the duty of exposing the dangers which threaten the class to which they themselves belong, and a large portion of whose members have been educated under their auspices. The Society disclaim any intention of imputing to the right honourable gentleman by whom the Bill has been introduced, that he desires what the Bill (if it becomes a law) will assuredly bring about. He has been obliged to derive his information on the subject on which he proposes to legislate from others; but that his advisers can be ignorant of the tendency of the Bill which they have counselled, it is hardly

possible to believe, for if the avowed object had been to depreciate the standard of qualification of the general practitioner of medicine, to lower his professional status, and to diminish his claim to public confidence, it would be difficult to have devised a measure better adapted to the purpose.

From the Society's connexion, as a public body, with the general practitioners of England and Wales, it is almost unnecessary to premise that in the observations which they are about to offer, they propose to confine themselves to the influence which the Bill is calculated to exercise on that class of medical practitioners. For although in their investigation of the measure, they have not failed to direct their attention to the whole of its provisions, in order that they might the better estimate its effect upon the interests of the general practitioner, they consider it beyond their province to express any opinion upon its probable influence on the interests of other branches of the profession.

The preamble of the Bill states, that "it is for the good of all Her Majesty's subjects that the knowledge of physic and surgery should be promoted, and that means should be afforded whereby those who have been examined and found skilful by competent authority, may be known from ignorant and unskilful pretenders to the same knowledge;" a proposition to which no exception can be taken. All are subject to the visitation of sickness, all therefore have an interest in the promotion of that knowledge, by the

exercise of which their maladies may be removed, or their sufferings alleviated ; and since few, if any, are able, without some assistance, to distinguish between those who possess the requisite knowledge for their relief, and those who do not, all have an interest in acquiring the means of distinguishing the skilful from the unskilful ; the obvious value of this power of discrimination being, that the skilful may be sought for, and the unskilful avoided.

In every civilized community the health of the people is a subject of common interest, and in proportion as any state advances in civilization, the regard for human life is more strongly marked, and its preservation becomes an object of greater solicitude, and a duty of more acknowledged obligation. This regard for the public health is the principle recognized in the preamble of the present Bill, and is the principle upon which we understand all medical legislation to be founded.

The knowledge that the exercise of medical skill is calculated to alleviate suffering and prolong life, and that the interference of ignorant pretenders to such skill seldom fails to aggravate disease and hasten death, has prompted the framers of this Bill to provide means by which the ignorant pretender may be detected. The same knowledge has led former legislators to provide means for attaining the same end, but it has led them a step further. Having satisfied themselves that the practice of ignorant pretenders to medical skill was attended with

the utmost risk to human life, they arrived at the conclusion, that to engage in such practice was an offence against the state; and accordingly, in every statute professing to regulate medical practice as a profession, from the reign of Henry VIII. to the present time, the practice of unskilful pretenders has been treated as a crime, and those who engaged in it as deserving of punishment.

Hence the necessity of sweeping away, by the first clause of the present Bill, all the preceding medical legislation of the country, every provision, wherever found, which “imposes any restriction on the practice of medicine and surgery” other than is contained in the Bill itself. What amount of restriction is imposed by the present Bill will be considered hereafter. All that we affirm in the outset is, that the principle of permitting ignorant pretenders to medical skill to pursue their dangerous practice with impunity, is a *new* principle, and that it can only be introduced by a repeal of the Statutes by which the practice of medicine has hitherto been regulated. The same clause which commences by asserting that it is for the common good that the knowledge of physic and surgery should be promoted—by admitting the existence of ignorant and unskilful pretenders to such knowledge, and the benefit to be expected from the employment of means for their more ready detection, concludes by repealing the very laws by which such men, when detected, are subjected to punishment. Such is the apparent

inconsistency which the first clause of this Bill presents to us.

And what, let us inquire, is this new feature in medical legislation which the framers of the present Bill are seeking to establish? It is neither more nor less than a deliberate declaration by the Legislature that it has ceased to be an offence against the law of the land for an unskilful pretender to medical knowledge to tamper with the health of Her Majesty's subjects—a removal of all existing restraints upon the practice of such persons among the masses of the population, and, by an inference not to be misunderstood, an announcement to the public at large, that the evils which former legislators appear to have apprehended from the practice of unqualified persons were either imaginary or greatly exaggerated.

We are not aware that we shall be placing the proposition in an unfair light, if we take its statement from the evidence of an eminent member of the profession, who has given his sanction to the principle against which we are contending¹. “I would not,” he says, when asked his opinion as to the prohibition and punishment of unqualified persons, “I would not interfere with the right of individuals to employ whom they please. It is very hard that I may not employ a quack doctor, if I am

¹ Sir Benjamin Brodie's evidence before the Committee of the House of Commons on Medical Education (1834), 5675.

foolish enough to wish it.” What valued privilege is this, we are tempted to ask, which, while every other private and personal right, inconsistent with the public good, must be sacrificed, is to be thus tenderly guarded from interference? No less a privilege than the right of individuals to employ a quack doctor if they are foolish enough to wish it! Now, if the right to employ a quack doctor is a privilege of which it is very hard to be deprived, we might expect to find that the right would be secured to all alike—that the interests of the poor, in this respect, would be treated with as much consideration as those of their richer neighbours. Not so, however; the eminent person whose evidence we are quoting, though he hesitates to interfere with the right of individuals, adds, “but public authorities should not be permitted to employ any one who has not a licence. Such a regulation is absolutely necessary with respect to medical men of parishes. If there be no restrictive law of that kind, in the country especially, the parishes will be seeking, not the best, but the cheapest practitioner, and the poor will be very ill attended.” This answer develops the principle which the present Bill professes to adopt and carry out. We will pause, therefore, for a moment, to consider its effect; and, in doing so, let us reverse the order in which the propositions are stated.—“Public authorities should not be permitted to employ any one who has not a licence.” Why should they *not*? They are surely more competent

than individuals to form an estimate of the qualifications of a medical practitioner—to distinguish the skilful from the ignorant,—Why then restrict *them* in their choice? Such a restrictive regulation we are told, is “*absolutely necessary* with respect to medical men of *parishes*.” Why so? The reason assigned is, that in the absence of such a restrictive law, the cheapest, and not the best practitioner, would be sought for, and, as a consequence, the poor would be very ill attended. The admissions involved in this proposition, are, we think, most important, and sufficient of themselves to decide the question of the prohibition of the practice of unqualified men. In the first place, the *right* to interfere with the practice of unlicensed persons is unequivocally conceded; it is admitted that such interference is *justifiable in certain cases*, for instance, in the case of appointments by public authorities—that it is *absolutely necessary in others*, for instance, in the case of parishes. The *reason* assigned for the exclusion of unlicensed men is not less important, namely, that the unlicensed practitioner will be the *cheapest* practitioner, and therefore the *most sought for*; and that the effect of employing the unlicensed practitioner will be, that the patient will be very ill attended.

Now are not these very *cogent* reasons against the toleration of unlicensed men, and do they not apply with fully equal force to the exclusion of such men from *general practice*? A large portion of the public

are just as fond of cheap doctors, as parish officers can be, and just as likely to regard the cheapest practitioner as the best; and the consequences of this choice will be fully as mischievous in the one case as in the other. Why then is a distinction to be drawn between the two? The answer to this enquiry is furnished by the first proposition. “It is *very hard* that I may not employ a quack doctor, if I am foolish enough to wish it.” We have no desire to misrepresent the argument; we give the answer, because we really believe it to be the *best* answer which can be given; but what an answer it is! The impolicy of permitting a person who has not been “examined, and found skilful by competent authority,” to attend the sick in our fleets and armies is obvious. The cruelty and inhumanity of intrusting the suffering poor in our hospitals and workhouses to such medical attendance, is too glaring to be overlooked. In *these* cases, the aid of the Legislature is invoked to prevent an acknowledged evil; to afford protection to those who are exposed to its operation, and to insure an observance of a humane and salutary law, by providing punishment for those who violate its provisions: but in the case of the public at large, in the case of all, in fact, who are either not receiving parochial relief, or are not inmates of a hospital or a prison, a different rule is to apply; that which is an admitted evil as respects one of these classes, is no evil at all as respects the other: the protection which is seen to be absolutely necessary in the one

case is utterly unnecessary in the other: what is an offence as regards the one, is to become a legal right as regards the other; and the people are to be left to seek, not the best, but the cheapest practitioner, and to fall victims to the ignorance of unprincipled men, whose practice the law is to tolerate and sanction, and for no better reason, than the *hardship* which would be entailed on individuals if they were prevented from employing them! This then we are to regard as one of the leading features of the present Bill.

In addressing our professional brethren, it is unnecessary to enlarge upon the aggravated evils which are entailed upon the public, by the practice of unqualified men. Nor is it necessary to do more than remind them of the pernicious influence which the toleration of such practice is calculated to have upon the qualifications of the future general practitioner. The Society have endeavoured in their "Statement" to prove, what all who are acquainted with the subject will admit, that the certain consequence of withdrawing protection from the qualified practitioner will be, to render medical students indifferent whether they qualify themselves or not; and that the inevitable result will be, that the attainments of general practitioners will rapidly decline. And, if this be so, a Bill, which discards the principle of preventing the practice of incompetent persons, and even *removes existing impediments* to their employment, may be justly characterized as a measure,

whose tendency is to degrade the great mass of medical practitioners of this country.

We now proceed to consider the second clause of the Bill. The second clause provides for the establishment of a body to be styled, "The Council of Health and Medical Education." This Council is to consist of the following members, eighteen in number:—

One of Her Majesty's principal Secretaries of State.

The Regius Professor of Medicine in the University of Oxford.

The Regius Professor of Physic in the University of Cambridge.

The Regius Professor of Physic in the University of Dublin.

The Regius Professor of Clinical Surgery in the University of Edinburgh.

The Regius Professor of Surgery in the University of Glasgow.

A Physician to be chosen by the College of Physicians of England².

A Surgeon to be chosen by the College of Surgeons of England.

A Physician to be chosen by the College of Physicians of Scotland.

A Surgeon to be chosen by the College of Surgeons of Scotland.

A Physician to be chosen by the College of Physicians of Ireland.

A Surgeon to be chosen by the College of Surgeons of Ireland.

And six other persons whom Her Majesty, with the advice of Her Privy Council, shall deem fit to be Members of the Council.

² We find several bodies spoken of in this Bill by names by which they were not incorporated, and by which they are not at present known. For instance, the College of Physicians of *England*, the College of Physicians of *Scotland*, the College of Surgeons of *Scotland*, the *Royal College* of Physicians and Surgeons

This constitution of the council seems to recognize a principle of *representation*, and the majority of its members appear to be selected with especial reference to that principle. The Crown will be represented; the Universities will be represented; and various branches of the profession will be represented; and not only so, but to a certain extent there will be a *local* representation. The Physicians of England, Scotland, and Ireland, will be separately represented, and the Surgeons of the three kingdoms will enjoy a similar privilege; and so far, well. It would appear, not only a politic, but a wise and just measure to introduce into a council, having high duties to fulfil in connexion with the medical profession, members selected from the various branches of that profession,—politic, because it would tend to conciliate the confidence and respect of each of those branches,—wise, because the wishes and grievances of each particular class would become the better known and understood,—and just, because those wishes would be likely to meet with more patient consideration, and those grievances with more ready redress.

The general practitioners of this country, by far the most numerous branch of the profession, and for that reason alone not the least important, have interests to be represented, as well as the other branches of the profession; they have their wishes to express, of Glasgow. We presume these are contemplated changes, which will be effected in due time.

and their grievances to be redressed; and we turn, therefore, to the constitution of the council, to see what voice *they* are to have in its deliberations. To which of the eighteen gentlemen who compose the council, are the general practitioners of England to look as the representative of their branch of the profession, or as charged with the protection of their interests? Is there *one* among them, we would ask, who is in any way identified with the general practitioners as a class, or who can be expected to sympathize with their feelings? We are not at present inquiring what the particular duties of the Council of Health may be in connexion with the general practitioner, or to what extent it may have the power of exerting an influence, beneficial or otherwise, over the members of that branch of the profession. We are simply looking to the constitution of a body styling itself "The Council of Health and Medical Education;" a body, therefore, having high functions to exercise in regard to the public health, and to the education of those, to whom its care is to be intrusted: and it is with deep regret and disappointment that we find, that, while other branches of the profession are represented in that body, the branch, to which *the health of by far the largest portion of the public is intrusted*, and whose education, therefore, must necessarily form a prominent feature in the duties of the council, is the only branch which is excluded from it.

We feel entitled to ask, what has the class of

general practitioners done, which has exposed them to this indignity at the hands of the framers of the present Bill? Why is this slur to be cast upon *them*? While other branches of the profession have been improving the professional attainments of their members, have the general practitioners alone remained inactive? Have their examining board failed to take advantage of the improved means of acquiring medical knowledge, and been backward in enforcing an extended curriculum, or in subjecting the candidates for their certificate to a searching and testing examination? Has it not been established, on the most unimpeachable testimony,—the willing admissions of distinguished members of the other branches of the profession, that the standard of qualification of the general practitioner has been greatly elevated; that the education which has been required from him “is of the very highest kind,—as good as that of physicians some years ago³?” And under whose auspices, mainly, has this improvement taken place? The College of Physicians have not hitherto felt it to be their duty to superintend the education or examination of the general practitioner, and they would be ready to disclaim any share in its past control. We shall be forgiven for saying, that the education enjoined upon the general practitioner, by the College of Surgeons, and the examination by which it was followed, was, for years after the passing

³ See the Evidence quoted in the Society’s “Statement,” pages 18—24.

of the Apothecaries' Act, very little calculated to increase the attainments or raise the character of that branch of the profession. It has been cheerfully admitted by a distinguished member of that college, that "the amelioration and improvement of the education of students in London has been mainly owing to the regulations of the Society of Apothecaries⁴." With these well-founded claims upon the confidence of the Legislature and the public, upon what plea is the general practitioner to be the only class excluded from the Council of Health? We have said that this is a Bill whose scope and tendency is to degrade the general practitioner, and unless we are to believe that such is its *object* also, we are utterly unable to find any satisfactory answer to the inquiry.

We have observed that the principle of representation is discoverable in the constitution of the council. To what extent that principle will be allowed to operate in practice, it is perhaps of little concern to the general practitioner to inquire. It is enough for him to know that his class will, in any event, be unrepresented. The most cursory glance, however, at the composition of the council, will suffice to show that the real control and influence in the council will rest with the Crown, and be exercised, of course, by the Government of the day. We do not mention this by way of complaint, for we are disposed to think that if the constitution of

⁴ "The Touchstone of Medical Reform," by Joseph Henry Green, Esq., p. 68.

the council is to remain unaltered, the general practitioner will have no great reason to regret that the virtual administration of its powers will devolve upon the responsible advisers of the Crown. But the fact must not be lost sight of, that whatever advantage may accrue to the profession itself from the introduction of representatives of the feelings and wishes of its various branches into the council, is an advantage from which the general practitioners, as a class, are debarred.

The ten following clauses of the Bill, from the third to the twelfth inclusive, relate to the appointment of the members of the council, their tenure of office and mode of remuneration, the appointment of their officers, and other details to which it appears unnecessary at present to advert. The perusal of them, however, will not fail to satisfy the profession of the great influence which the minister of the Crown will possess over the decisions of the council.

The thirteenth clause provides for the establishment of a register of all persons who shall adduce evidence of their qualification to practise, and directs an annual publication of the names of those who have been registered, in alphabetical order, in their several classes, with their several places of abode, and the dates of their testimonials. To this provision no reasonable objection can be urged. It is one of those means by which "those who have been examined and found skilful by competent authority may be known" from those who have not, and will

no doubt effect as much benefit as any such regulation *singly* can effect. To expect, however, that the sick man will search the register to ascertain if the medical practitioner whom he proposes to employ appears upon it, or that the existence of the register will, of itself, operate as the slightest check upon unqualified practice, is to expect what is in the highest degree improbable. So long as unqualified persons can practise *without risk to themselves*, so long will they continue to practise; and so long as they are ready to practise, and to undersell the educated practitioner, so long will the public be ready to employ them.

The same clause introduces us to the three classes of medical practitioners contemplated by the Bill, namely, the "Physician," the "Surgeon," and the "Licentiate in Medicine and Surgery;" but all that we learn of them in this clause is, that the future physician and surgeon are to pay a fee of 5*l.* upon registration, while the licentiate is to have the privilege of registering upon payment of a fee of 2*l.*, from which we are led to expect that some marked distinction is to be drawn between the surgeon and the licentiate in medicine and surgery. Of the nature of this distinction we shall learn more hereafter.

The 14th clause explains in what manner the *future* licentiate of medicine and surgery is to acquire his title to registration. Inasmuch as the existing members of the profession are those who are immediately affected by the Bill, we might have expected

to find their title to registration would have been the first dealt with. We must wait, however, till we arrive at the 28th clause, to satisfy ourselves on this point, and it will be more convenient to consider the clauses in the order in which they stand in the Bill. The future English licentiate, then, to entitle himself to be registered, must have attained the age of 21 years, and “have been examined by the Royal College of Physicians of England, assisted by the Court of Examiners of the Apothecaries’ Company, and also examined by the Royal College of Surgeons of England, and have received letters testimonial from each of the bodies by which he has been so examined, of his being duly qualified to practise as such licentiate.”

Before we offer any observations with respect to the selection of the bodies by whom the examination of the licentiate in medicine and surgery is to be conducted, we beg to refer to what must precede the examination, we mean the *course of study* which is to be pursued by the future licentiate, and to, what is of equal importance, the *nature of the examination* to which he is to be subjected. For this purpose we turn to the 19th clause, where we find it provided, “that the several *colleges* shall, from time to time, when required by the council, prepare and lay before the council a scheme or schemes of the course of study, and particulars of examination to be gone through by all persons, applying to such colleges respectively for letters testimonial” as licen-

tiates; and that the council is “empowered to make, from time to time, such changes in any of the schemes so laid before them, as to the council shall seem expedient.” From this, then, we learn that the College of Physicians and the College of Surgeons are to prepare the scheme of the course of study, and particulars of the examination, to be “gone through” by the licentiate in medicine and surgery. The Court of Examiners of the Society of Apothecaries, whatever may be the nature and extent of the assistance they are to be called upon to render to the College of Physicians in the *examination* of the licentiate, are clearly not to assist in framing the scheme of study. That is to be the duty of the *colleges*. Nor are the Court of Examiners to assist in preparing the particulars of the examination. That duty also devolves upon the *colleges*.

In estimating, therefore, the amount of security afforded by this Bill, that the general practitioner shall be educated in a manner to fit him for the efficient discharge of his important functions, we must dismiss from our minds any guarantee which might be afforded by the co-operation of a body of his own class, in framing the curriculum of study, and determining the nature and extent of the examination, because the duty of the Court of Examiners of the Society of Apothecaries will not *commence* until the course of study has been pursued, and the particulars of the examination decided on.

Thus we have fair scope given for the full deve-

lopment of another feature, which it was apprehended would be found to belong to the present measure, namely, that of leaving the education and examination of the general practitioner to the higher grades of the profession ; and we unhesitatingly assert that this feature *is* fully developed in the present Bill. The education and examination of the general practitioner will be exclusively in the hands of the Colleges of Physicians and Surgeons. We say exclusively, because, although the assistance of the Court of Examiners of the Society of Apothecaries in the examination might at first sight appear to hold out an assurance, that the general practitioner would have some influence in the education of his own class, yet when it is remembered that the candidate for the licence is to be *educated* under the exclusive direction of the Colleges of Physicians and Surgeons, and that the *particulars of his examination* are to be decided upon by them, what real benefit can be expected to result from the Court of Examiners of the Society of Apothecaries, or any other examiners selected from the body of general practitioners, being permitted to assist in his *examination* ? The Bill does not specify the nature or extent of this *assistance*, further than that it is assistance to be rendered to the College of Physicians in the medical examination of the licensee ; but if we consider that there is only one branch of examination, perhaps, in which the College of Physicians might be supposed to desire the

assistance of the general practitioner, it is sufficiently clear to what their share in the examination will be limited. Any difficulty, however, on this point, will no doubt be set at rest by the two colleges in preparing their scheme of the *particulars* of the examination.

We regard, therefore, the education and examination of the general practitioner as left in the hands of the Colleges of Physicians and Surgeons.

Now, we ask, who are the bodies thus intrusted with the control of the education and examination of the general practitioner, and in what relation do they stand to the class to be educated? We are anxious to avoid giving cause of offence; but we have a public duty to perform in drawing the attention of the general practitioners of England to the tendency of this measure; and although we should exceedingly regret to find ourselves called upon, in the discharge of our duty, to say that which may prove unpalatable, we are not at liberty on that account to withhold our views.

The governing bodies of the Colleges of Physicians and Surgeons, upon whom the duties to which we have adverted will devolve, are composed of able and honourable men, many of whom are an ornament to the profession to which they belong; but we do not think that it is derogating in any degree from the respect which is due to the position which they occupy in their profession to assert, that that

very position renders them unfitted to decide upon the education and examination of the general practitioner.

We have on a former occasion stated our opinion to be, that the public will suffer from the education and examination of the general practitioner being intrusted to the higher grade of the profession, and when we see that it is the intention of the present Bill to intrust that duty to the Colleges of Physicians and Surgeons, it is imperative upon us to repeat that opinion, and to state, as distinctly as we are able, the grounds on which it is founded.

The first thing for consideration in determining any course of education, are the duties for which the pupil is to be educated ; and the nature and extent of the education will be just in proportion to the estimate which may be formed of the importance of those duties by those upon whom the task of determining the education devolves. Now the duty which the general practitioner has to discharge, being the treatment of disease under every form and variety in which it attacks the human frame, it is difficult to conceive any duty of higher importance, or involving a more serious responsibility. If the duties and responsibilities of the physician are important, the duties of the general practitioner are in no respect less important ; because, while the labours of the physician are necessarily confined to the few, those of the general practitioner are exercised in relation to the great bulk of the population ; and while

the physician for the most part exercises his skill among those who are in some degree capable of judging of his qualifications, the general practitioner is called to minister to the necessities of those who are infinitely less able to form any just estimate of his competency. Such being the nature of the duties which devolve upon the general practitioner, it is difficult to conceive how he can be educated *too highly* to qualify him for their fitting discharge. The public wants have created, and the present Bill contemplates the continuance of, two classes of medical practitioners—the physician, and the general practitioner of medicine. Whatever may be the difference in the *qualifications* of the two classes for the discharge of their professional duties, the *nature* of those duties is essentially the same. In the practice of the law there is a well-defined line, which separates the two grades of the profession, and confines each grade to its particular duties. But in the practice of medicine, no such line of demarcation exists. In all their essential features, the functions of the physician and the general practitioner of medicine are identically the same; each is called upon to attend the sick, and to prescribe the remedies which his skill may suggest; and, perhaps, the only distinction which could be drawn between the functions of the two is this, that in addition to the duties which he performs in common with the physician, the general practitioner prepares and administers the remedies which he prescribes. The functions of the

two classes being virtually the same, it is obvious that any claim which one of those classes may have to a greater share of public confidence than the other, must rest upon the difference which may exist in their respective qualifications for the discharge of those functions; in other words, if we could suppose the qualifications of the two classes for the discharge of the same duties to be exactly alike—that neither was better qualified than the other—all difference between the two classes would cease, and one or other would become, as a distinct class, useless. Now if this be a correct view of the subject, and we admit the existence of a more highly educated class, and a class having, therefore, a stronger claim to public confidence than the class of general practitioners, it follows, that to maintain that stronger claim, the better educated class must *remain* the better educated class; and that if, from any increased exertions on the part of the lower class to raise the standard of their acquirements, without a corresponding activity on the part of the higher to retain their superiority, the difference between the qualifications of the two classes should diminish, the necessity for two distinct classes would diminish also. The irresistible conclusion from these premises is, that the class which is in possession of the fuller measure of public confidence, on the ground of superior attainments, has a direct interest in preserving *as marked a distinction as possible* between the attainments of their own class and that of

the class below them. Now if the public at large have an interest in the class of general practitioners being as highly qualified for the discharge of their duties as the present state of medical knowledge will allow of their becoming, is it wise, is it safe, to intrust the duty of their education and examination to the exclusive direction of those whose interest lies in directly the opposite direction? Never let it be forgotten that it was with the general practitioner himself that the demand for an improved standard of professional qualification for those of his own class originated, and that it is the general practitioner who has raised that standard to what it now is. The general practitioner has a direct interest in improving the standard of qualification, and thereby extending the sphere of usefulness and raising the professional status of his own class. The interest of the physicians, as a body, is directly opposed to this improvement and elevation of the general practitioner. The difficulty which this view of the subject presents to the examination of the general practitioner by the physician, has been felt and acknowledged by members of that body, because it cannot fail to render the duty an invidious one, and there will always be this anomaly attending its discharge—that in proportion as the duty of giving a high qualification to the general practitioner is performed with zeal and efficiency, will the physicians be breaking down the distinction which exists between the class which they are educating and themselves—

that distinction upon which their very existence, as a separate class, depends.

Looking to the constitution of the governing body of the College of Surgeons, the same reasoning applies, and with equal force, to the share which that body is to take in the education of the general practitioner.

But it will be said, You ought not to impute to the Colleges of Physicians and Surgeons, that in the exercise of the powers proposed to be given them by this Bill, they will be actuated by a desire to lower the standard of attainment of the general practitioners, or check their improvement as a class. We reply that our objection to the Bill is, that it gives them the *power* of doing so. Nor is this all; there is an evident intention on the part of the framers of this Bill, to fix a stamp of inferiority upon the general practitioner, which is well calculated to awaken his distrust of the mode in which the discretionary powers of the Bill are likely to be exercised. Observe the invidious distinction which the Bill draws between the physician and surgeon, and the licentiate in medicine and surgery, with reference to their title to examination. The physician is not to be admitted to examination until he has attained the age of twenty-six years, and the surgeon the age of twenty-five years. The licentiate, on the other hand, is to be admitted when he has attained the age of twenty-one years. Still more marked is the regulation with respect to the period of their studies. The

physician and surgeon are each to adduce proof of having applied themselves to their studies, during at least five years. *No period of study whatever is prescribed for the licentiate.* As far as the Bill makes any provision on the subject, he may have studied twelve months, six months, or not at all. It may be said, that it is unnecessary for the Legislature to interfere in details of this description, and that it might be properly left to the examining bodies, to determine the period of study to be enjoined upon the candidates for their letters testimonial. Be it so ; but if the Legislature is asked to fix a period in the one case, why is it asked to *omit* to fix a period in the other ? It is the invidious distinction of which we complain, as calculated to throw a slur on the education of the general practitioner, as if the period of *his* studies was a matter beneath the dignity of the Legislature to decide upon. We shall be reminded, too, of the power given to the Council of Health to make such *changes* in the schemes of the colleges, as to the council shall seem expedient. We have not forgotten the existence of that power, nor the constitution of the body in which it is vested. It is when we first have occasion to contemplate the necessity of an appeal to the "Council of Health and Medical Education," that we begin to realize the extent of the loss which the general practitioners will sustain from having no representative at its Board. The College of Physicians, and the College of Surgeons, who have *prepared* the scheme, will be

there to justify it. They may calculate upon the aid of their brethren, the representatives of the Scotch and Irish Colleges, who will have their own schemes to be justified in turn. The Professors of the Universities will belong either to the class of physicians or surgeons, and upon a matter of purely professional detail (as it will be described), the Secretary of State, and the six nominees of the Crown, will be content to be guided by the opinions of the professional members of the council. We say, therefore, that no 'change' can reasonably be anticipated from the council in the schemes which have been prepared by the colleges, and that practically there is no appeal from their decision.

We pass over the 15th and 16th clauses without further comment, and also the 17th clause, as clauses having especial reference to the education and examination of the physician and surgeon, and we come to the 18th clause, which, as further contrasting the position of the physician and surgeon and the licentiate in medicine and surgery, appears to call for more particular observation.

This clause provides, that every person registered, after examination, as a physician under the Act, shall be admitted as an *Associate* of the College of Physicians from which he shall have received his letters testimonial, and every person registered, after examination, as a surgeon under the Act, shall be admitted as a *Fellow* of the College of Surgeons from which he shall have received his letters testimonial ;

and it is further provided, that every such physician and surgeon shall be required, if he shall practise in any other part of the United Kingdom, to enrol himself as an Associate or a Fellow (as the case may be) of the College of Physicians or Surgeons of that part of the kingdom to which he shall remove. Now it must be observed, that this right of being admitted a Fellow of the College of Surgeons, belongs only to the surgeons *examined under this Act*, and not to the existing members of the College of Surgeons, or to the licentiate in medicine and surgery. The consequence is, that the youngest surgeon registered, after examination, under this Act, will take precedence, as a Fellow of the College, over every existing member of that College who has not attained that rank, whatever his standing, in point of seniority or professional acquirement, may be. It is less, however, with the view of remarking upon this apparent hardship, that we have referred to the 18th clause ; it is rather for the purpose of drawing attention to the fact, that in the case of physicians and surgeons, provision is made for their admission into the body from which they receive their letters testimonial, while in the case of the licentiate in medicine and surgery no such provision is made. Here, again, the Bill appears studiously to overlook the interests of the general practitioner. He finds himself excluded from the council ; excluded from any share in determining the education, or influencing the character, of the examination of his own class ; without any real

participation in the examination itself, and, as regards the future licentiate, after his education and examination have been directed by the Colleges of Physicians and Surgeons, the Bill secures him no admission into either of those bodies⁵.

The 20th clause imposes certain restrictions upon the Universities in conferring medical degrees.

The 21st, after empowering the Universities to grant the degree of Bachelor in Medicine to any student of the University who shall have attained the age of twenty-two years, provides that every such graduate being also examined, and having received letters testimonial of his qualification, in the manner thereinbefore prescribed, in the case of licentiates of medicine and surgery, shall be entitled to be registered by the council as a licentiate in medicine and surgery, "subject to such general regulations as shall be made by the said council, concerning the registry of licentiates." The advantage intended to be conferred upon the bachelor of medicine by this clause is not very obvious, because after being examined, and having received letters testimonial of his qualification to practise as a licentiate, he would, as a matter of right, be entitled to claim to be registered as a licentiate, and the fact of his being a

⁵ If it is intended that the letters testimonial, which are to be granted by the College of Surgeons to the Licentiate in Medicine and Surgery, are to constitute him a Member of that College, the *Bill* neither discloses such intention nor secures its accomplishment.

bachelor of medicine would not, of course, take away that right. The explanation, however, is probably this, that the clause contemplates the possibility of the bachelor of medicine not having conformed to the scheme of education prepared by the colleges for the licentiate, and intends to give him the right to present himself for examination on the strength of his degree. If this be the intention, it appears only reasonable, assuming, of course, that the education required for the degree of bachelor of medicine is at least equal to that of the licentiate.

The 22nd clause provides, that no bylaw of the colleges shall have any force until it has received the approval of the Council of Health. Here, again, there would be some protection afforded to the general practitioner if he was fairly represented in the council. As it is, however, the protection is merely nominal, and the greater the power vested in the council of controlling the proceedings of the colleges is discovered to be, the greater is the mortification to which the general practitioner is exposed, in feeling that its constitution is such as to afford him no reasonable pledge that that power will be exercised for his welfare.

The 23rd clause provides for the registry of all medical and surgical students. The Society of Apothecaries are fully sensible of the advantages of such a provision, and were the first medical authority in this country to establish a registration of the students who were pursuing their studies in confor-

mity with their regulations. The experience acquired by the Society, however, on this subject, leads them to think that the machinery contemplated by the Bill for ensuring the registration is not a good one. They would have preferred that some officer unconnected with the hospitals or medical schools should have been appointed to conduct the registration. The Society, however, are desirous of raising no captious objections, and the particular mode of registration is a matter of detail which may be fitly reserved for future consideration.

The 24th clause provides that where the concurrence of more than one body is required for qualifying any person for registration, the examination may be conducted either by separate examiners, appointed by each body, or by a joint board appointed by the two; and in the case of a joint board, certain examiners may be appointed by one body, and certain examiners by the other, or the two bodies may unite in a joint appointment. All these matters, together with the division of the subjects of examination in case of separate examinations, are to be left to the decision of the bodies themselves; and in case of their disagreement, the Council of Health is to decide between them. The effect of this clause upon the future general practitioner is, that he may either have to pass one examination before the College of Physicians, assisted by the Court of Examiners of the Society of Apothecaries, and another before the College of Surgeons, or before a joint board of

physicians and surgeons; and the only observation, perhaps, which occurs upon the clause is, that it gives the colleges almost unlimited power in determining the constitution of the examining board of the licentiate, leaving, as it does, the number, manner of election, and even the qualification of the examiners to their discretion.

The 25th clause endeavours to secure an observance by the examining bodies of their own regulations, by enabling the council to require such returns as they may think fit respecting the examinations, and to send its secretary or one of its members to be present at them; and the council are to have the power of refusing to register upon the letters testimonial of any examining body which may be found to have failed in its duty. Such a power is a most fit and proper power to be vested in a body exercising the functions of a Council of Health; but there would be little occasion for its exercise, if the examining body was actuated by a wish to elevate, rather than lower, the tone of its examinations. The best stimulus to an efficient examination, and the surest pledge for the observance of the regulations which may be designed for its promotion, will be found in the appointment of examiners who feel *a personal interest* in the welfare of the class to be examined, and are anxious to raise its character by making it better, and better qualified for the discharge of the duties which belong to it. The Court of Examiners of the Society of Apothecaries had not

the expectation of a visit from the secretary of a Council of Health to stimulate, nor the threat of a refusal of their certificate to warn them. In the absence of these advantages, and under circumstances infinitely more trying than can ever fall to the lot of any future examining board, they have succeeded in raising very considerably the standard of qualification of the great body of medical practitioners of this country. What was the stimulus to their exertions, and what cheered them on to an efficient and successful discharge of their duty? It was a sincere and hearty desire to render the class over whose education and examination it was their high privilege to preside, (a class from which they were themselves selected, and with which they were identified in interest and feeling,) better qualified to perform its duties, and by raising their professional, social, and moral qualifications, to make them more worthy of the confidence of the public. They may be allowed to cherish the belief that they have in some measure succeeded in this, the great object of all their labours, and in that success they find their highest satisfaction and their brightest reward.

We now come to the 26th clause, which is one of the *restrictive* clauses of the Bill, and we might expect that we should here have only to express our regret that the restriction did not afford more efficient protection to the general practitioner and the public against the practice of unqualified persons. We were hardly prepared to find in *this* clause a power

given to the Council of Health, which will enable them, if they are so disposed, *to exclude the general practitioner from all public appointments whatever !* a power so arbitrary and so destructive in its character, that if the Bill had betrayed no symptoms of hostility to the general practitioner, and had created no feelings of distrust or alarm by its other provisions, we should have thought a most dangerous one to intrust to the Council of Health ; but looking to the constitution of that council, and to the inimical feeling which is displayed against the general practitioner in every part of this measure, we can only view it as a power directed against his very existence as a medical officer, in connexion with public institutions. The clause provides that after the passing of the Act no person who is not registered by the council shall be appointed to any medical or surgical office in any public hospital, prison, infirmary, dispensary, work-house, or other public institution, or to any medical or surgical office in the army or navy, or in the service of the East India Company (with the exception of duly qualified natives in India); and that wherever it is provided by law that any act shall be done by a medical or surgical practitioner, by whatever name he may be called, such provision shall be construed to mean a person qualified to be appointed to such medical or surgical offices. The council are to make regulations for specifying *what* institutions are to be considered *public institutions* within the meaning of the Act, *and which form of testimonial shall qualify for*

each particular office ; in other words, the council are to say whether a given office shall be held by a physician, or by a surgeon, or by a licentiate in medicine and surgery ! Now there are many offices in connexion with the public institutions specified in the Bill, and other like institutions, which are held, and have been invariably held by general practitioners. It will be competent for the council to say—this is an office of sufficient importance, in our opinion, to be held by a physician—henceforth physicians only shall be qualified to hold the office—*and from this decision there is no appeal*. It must be observed that this power may be exercised to the prejudice even of the *present holders* of these offices, because the clause applies to every *appointment* after the passing of the Act ; and the appointment to many of the offices in question being annual, a medical officer who has held a public appointment for years may find himself suddenly incapacitated for re-election to his office by the regulations of the council. We contend that the power of determining the duties for which each particular class of the medical profession shall be deemed qualified, is a power which, if it is to be exercised at all, *should be exercised by the Legislature alone*. But to intrust the decision of the question, whether the medical and surgical offices in all the public institutions in the kingdom shall be held by physicians and surgeons only, to a council of 18, *of whom 11 at least are physicians and surgeons*, is placing the licentiates, as regards the

offices in question, completely at the mercy of the physicians and surgeons, and is obviously most unjust. Does not the existence of a clause such as this, in a Bill professing to effect a better regulation of medical practice, go far to prove that one prominent feature in the *better regulation* contemplated by the framers of the Bill, is the transfer of as much of medical practice as possible from the general practitioners into the hands of the physicians and surgeons? Such an observation may appear an invidious one to make, but we think it more than justified by the occasion which has called it forth, and we feel it our duty to denounce the principle of this clause, as fraught with the utmost danger to the interests of those to whom we are immediately addressing ourselves.

The 27th clause enacts, that all persons who are registered as physicians, surgeons, or licentiates, shall be exempt, while practising as such, from serving on juries and inquests, and from serving corporate, parochial, ward, hundred, and township offices; that no unregistered person shall be entitled to such exemption, and that the certificate of an unregistered person shall not be received as the certificate of a medical or surgical practitioner in any court of law, or in any case in which by law the certificate of a medical or surgical practitioner is required. We are not aware that this clause confers any privilege upon the legally qualified practitioner in medicine and surgery, which he does not already enjoy under the statutes which the present Bill proposes to repeal.

Nor are we aware that, as the law at present stands, the certificate of an unqualified person can be received "as the certificate of a medical or surgical practitioner in any court of law, or in any case in which by law the certificate of a medical or surgical practitioner is required."

The evidence of an unqualified person in courts of law upon subjects of medical enquiry, will, under this clause, be admissible to the same extent as it is at present ; and any objection which might now be urged to the value of his testimony, on the ground of his being a person whom the law regarded as *unfit* to practise, and whose practice therefore it denounced as *illegal*, will be removed by the provisions of the present Bill, which clothe him with the character of a legal practitioner.

In connexion with this clause we may conveniently consider the 30th clause, which enacts, that after the passing of the Act no person shall be entitled to recover any charge in any court of law for any medical or surgical advice, attendance, or operation, or for any medicine prescribed or administered, unless he shall prove upon the trial either that he is registered under the Act, or that he was legally practising in the capacity in which he claims such charge before the passing of the Act. This clause throws no material impediment in the way of illegal practitioners which does not at present exist. As we find, however, that some misapprehension exists as to the effect of the clause, we will mention what we understand the

present state of the law to be, and the extent to which, as it appears to us, it is proposed to modify it.

Under the Apothecaries' Act, any person seeking to recover compensation for medicine and advice in a *medical* case, must prove that he is legally qualified to practise as an apothecary, *whether an objection is taken to his qualification or not*. Where compensation is sought to be recovered for medicine and advice in a *surgical* case, the party making the claim is, perhaps, not bound to prove *in the first instance* that he is legally qualified to practise as a surgeon, unless his title to act in that capacity is impeached; but it is competent for the party upon whom the claim is made, to call upon the claimant to prove his qualification; and if he fails to do so, we apprehend he would not be entitled to recover. The only change, therefore, which the present Bill proposes to effect in the law is this, that hereafter it will be incumbent upon the general practitioner, when he is seeking compensation for professional services rendered in a *surgical* case, to prove his qualification whether it is impeached or not, just as it is incumbent upon him *now* to prove his qualification where he seeks to recover for his services in a *medical* case. As the law at present stands, no mere chemist and druggist, or other unqualified practitioner, is entitled to recover in a court of law for medical advice, or for medicines prescribed and administered upon his own authority.

While upon the 30th clause, we may take the opportunity of observing that no proof of qualification has hitherto been required from practitioners in *midwifery*, the law regarding their office “as rather ancillary to nature, than an interference with the healing art:” consequently, *any* person who has rendered services *strictly in that capacity* is entitled to recover compensation for such services. The present Bill appears to contemplate no alteration of the law in this respect, for we find no restriction upon the practice of unregistered persons as accoucheurs, either in connexion with public institutions or otherwise. Whether this is an important omission in a Bill for the general regulation of medical practice, or whether this is a subject which is properly reserved for future consideration, we must leave it to our professional brethren to decide.

The 28th clause provides that it shall be lawful for the council, on the application of any person legally practising as a physician, surgeon, or apothecary, in any part of the United Kingdom, or in any of Her Majesty’s Colonies and Foreign Possessions⁶, to cause the name of such person to be registered as a physician, surgeon, or licentiate in medicine and

⁶ Persons practising in the United Kingdom must apply for registration within twelve months, and persons practising in Her Majesty’s Colonies and Foreign Possessions within two years after the passing of the Act, and in the meanwhile they are to enjoy all privileges and exemptions of which they are in possession at the time of the passing of the Act.

surgery, as the case may be, on production of his diploma, licence, or certificate, or such other proof as may be satisfactory to the council, that, at the time of the passing of the Act, he was legally entitled to practise as a physician, surgeon, or apothecary, as the case may be, in some part of the United Kingdom, and on payment of a fee of *two pounds* in the case of Fellows or Associates of the Colleges of Physicians and Surgeons respectively, and of *five shillings* in every other case.

The first observation upon the clause is, that its language does not effect its apparent object, which is to admit to registration all persons, wherever practising, who are legally *entitled* to practise in *some* part of the United Kingdom; that is to say, either in the part in which they are actually practising, or in some other part. It may be that a person who is legally *entitled* to practise in one part of the United Kingdom, is illegally *practising* in another; for instance, there are many persons who are legally entitled to practise either as physicians or surgeons *in Scotland or Ireland*, who are at this moment illegally practising in those capacities in *England*. Now the clause, in words, limits the right of applying to be registered to persons legally *practising*. This may, however, be a mere error of the press, and it is sufficient to draw attention to it. We assume the intention of the clause to be, that all who are legally entitled to practise as physician, surgeon, or apothecary in *any* part of the United Kingdom,

shall become entitled to register as physician, surgeon, or licentiate in medicine and surgery: the effect of which registration will be to entitle them to practise as physician, surgeon, or licentiate in medicine and surgery in any *other* part of the United Kingdom; and to this feature in the Bill we wish to offer no objection. The clause, however, appears to us to raise a question of a more serious kind, and we have considerable difficulty in discovering its real intention. The question is this, are such of the present members of the College of Surgeons as are not *Fellows* of the College to be registered under this Bill as “surgeons,” or as “licentiates in medicine and surgery;” for example, will the surgeon-apothecary, who possesses the double qualification of the diploma of the College of Surgeons and the certificate of the Court of Examiners of the Society of Apothecaries, be registered as a “surgeon,” or as a “licentiate in medicine and surgery,” for we see no provision which would admit of his being registered as *both*?

The Bill does not define the duties of the surgeon, as distinguished from those of the licentiate of medicine and surgery; but the inference to be drawn from the whole Bill is, that it regards the “surgeon” as a person devoting himself to the practice of surgery, as distinguished from the practice of medicine, strictly so called; while the title of “licentiate in medicine and surgery,” as contrasted with that of “surgeon,” would seem to imply a person engaging

in both branches of practice. Does the Bill give the surgeon-apothecary the *option* of registering as a surgeon *or* as a licentiate in medicine and surgery, or does it mean to *direct* that the surgeon-apothecary shall be registered as a “licentiate” and not as a “surgeon?”

It seems difficult to believe that the Bill would deny to persons legally qualified to practise as a surgeon, and who have undergone the same examination as the most distinguished member of the College, the privilege of registering as a “surgeon” if he thinks proper to do so, but we are nevertheless disposed to think that it is intended that the surgeon-apothecary shall be registered as a “licentiate in medicine and surgery;” and if so, it would seem that *all* the members of the College, *other than Fellows*, must be so registered. The question may be of considerable importance to the general practitioner with reference to the power given to the Council of Health, of determining *which form of testimonial* is to qualify for particular public offices; unless, indeed, in the case of surgical offices, the power of the council extends to deciding that it shall be held by a Fellow of the College only. The clause, however, leaves the matter open to doubt and conjecture; and from the estimate we have formed of the character of the Bill, we are unfortunately inclined to expect that the construction most inimical to the interest of the general practitioner will prove in the result to be the true one.

The 29th clause imposes a penalty of 20% upon every person appointed “to any medical or surgical office for which he is not qualified according to the provisions of this Act and the regulations of the council,” and who acts or practises therein. The medical and surgical offices meant to be referred to, are the offices in the public institutions described in the 26th clause. The office of attending the great mass of the population, is one for which the most ignorant and incompetent person is fully “qualified according to the provisions of this Act,” and therefore no penalty is provided in the case of that office. We have already fully commented on this feature of the Bill. It is only necessary to observe further upon the 29th clause, that if any benefit is likely to result from the infliction of the penalty imposed, the mode provided for its recovery is the one which of all others affords the least probability of the penalty being enforced.

The Society in their “Statement” have pointed out the objections which exist to the machinery which it is necessary to employ for the recovery of the penalties imposed by the Act of 1815. They have explained that the dilatory and expensive form of proceeding by *action of debt*, involving, as it does, a trial at the assizes, and the production of numerous witnesses to establish a conclusive case, precludes the possibility of instituting *frequent* prosecutions,—that the uncertainty of a prosecution being instituted in any given case, and the length of time

which must, under any circumstances, elapse between the commission of the offence and its punishment, encourages many to engage in practice who would not venture to do so if the execution of the law was more certain, and followed close upon the commission of the offence. On these grounds the Society recommended that, instead of imposing a penalty to be recovered by action of debt, power should be given to two magistrates to convict and punish by fine and imprisonment, with an appeal to the quarter-sessions. The effect of this alteration would be, that it would be competent for those who complained of a case of illegal practice, to apply to a magistrate for a summons calling upon the party complained of to answer the charge. Two magistrates would investigate the case, on the spot, without delay, and with little or no expense, and, if the offence was proved, the fitting punishment would be awarded and immediately administered. A penal enactment of this kind temperately but firmly administered, *and applying to every description of unlicensed practice*, if it failed to extinguish unlicensed practice altogether, would, in our opinion, go far to check and discourage it, and would evince a *desire* at least on the part of the framers of the Bill to afford protection to the qualified practitioner.

The imposition of a penalty to be recovered by action of debt or information in the name of the Attorney-General, is open to all the objections which we have urged against the mode of enforcing the

penal provisions of the Apothecaries' Act. The proceeding, whether by action of debt or information, implies a trial *in the Civil Courts*, with all its attendant delay and expense, and followed by the ill effects of which that delay and expense are productive. But before *either* of these forms of proceeding can be resorted to, it may be necessary to overcome the scruples of an Attorney-General who may entertain the same views with respect to the impolicy of attempting to restrain unlicensed practice by penal enactments, *even in the case of public appointments*, as are professed by the framers of the present Bill in the case of all other branches of medical practice.

The 31st clause provides that every unregistered person who shall wilfully and falsely pretend to be registered under the Act, or shall take or use any name or title implying that he is so registered, shall be punished by fine or imprisonment, or both. It will be observed that the offence is pretending *to be registered*: therefore any person may pretend *to be* a physician, surgeon, or apothecary—that will not constitute the offence. He may boldly *assume the title* of physician, surgeon, or apothecary; nay, more, he may *act* in each and all of those capacities—that will not constitute the offence. If he informs his patients or the public that he has just returned from the Council of Health, where he has been registered as a “licentiate in medicine and surgery;” or if he writes over his door, or engraves upon his card,

“duly registered under the Act for the better regulation of medical practice throughout the United Kingdom;” then, indeed, he is guilty of the offence contemplated by the 31st clause of this Bill, and he will be liable, on conviction, to be punished by fine and imprisonment, or both, unless he should succeed in satisfying his judges (which he would probably have little difficulty in doing), that he was not possessed of sufficient intelligence to be responsible for his actions. Such is the nature of the penal check upon unqualified practice which this Bill proposes to introduce. It does not *discard* penal checks as altogether useless or impracticable—that we could understand. It empowers the Attorney-General to file an information, or commence an action of debt, in Her Majesty’s courts of record at Westminster, for the recovery of 20*l.* against a person who is appointed, without the necessary qualification, to the humblest medical office in connexion with a *public institution*, while it leaves *the whole range of private practice* open to any who choose to engage in it. It punishes with fine and imprisonment the man who *pretends to be registered*; while the man who avows himself to be unregistered, and openly and boldly *exercises the functions* which the Bill seems to admit should belong exclusively to those who *are* registered, is permitted to do so with impunity!

We have now brought our investigation of the several clauses of this Bill to a close, and, in looking at the result of that investigation, we can only

express our deep regret, as one of the bodies intrusted with the medical education of the country, that a minister of the Crown should have been induced to lend the sanction of his name to a measure so injurious to the interests of a large class of the profession, and to the welfare of the public at large,—injurious to the interests of the profession, because it removes the protection which men who have educated themselves in obedience to the laws, are entitled to expect from the laws,—and injurious to the welfare of the public, because whatever tends to discourage the medical practitioner, in the acquisition of professional knowledge, and to render him less fit to undertake the charge of the public health, works an evil from which the public are the certain and immediate sufferers. It is no exaggeration to say, that the measure is one which offers more direct encouragement to the ignorant pretender than to the legally qualified practitioner, because, while it deprives the legally qualified practitioner of all his existing privileges, and leaves it uncertain to what extent, and for how long a time, those privileges may be restored to him, even after he has purchased his registration in compliance with the Act, it confers a positive boon upon the ignorant pretender, inasmuch as it repeals the existing penal checks upon his practice,—it legalizes that which was before illegal,—and elevates his character and position in the same proportion that it depresses and degrades that of the legally qualified practitioner. It is true

that the present Bill does not confer upon him the right of holding appointments in connexion with public institutions,—*neither does the Bill confer that right upon the registered licentiate*, because it leaves it to the Council of Health to decide whether the right shall in future be enjoyed by the licentiate or not. Even in this respect, therefore, there is less difference between the position of the registered and the unregistered practitioner than might at first be supposed.

We are unwilling to believe that the framers of this Bill will endeavour to force upon the profession a measure, which a large majority of its members can regard with no other feelings than those of distrust and alarm; but if such should unfortunately be their determination, it will be the duty of this Society to urge upon the Legislature the views which they entertain, in common with their professional brethren, of its mischievous and dangerous tendency; and they pledge themselves to leave no effort untried to prevent the Bill becoming law. It is unnecessary for the Society to repeat, that they are not insensible to the necessity which exists for a revision of the laws by which the medical profession is at present regulated. They have omitted no opportunity of making this admission known, and of representing in the proper quarter the views which they entertain upon the subject. They feel not only that they have a common interest in the decision of this great question with the general practitioners of this country,

but that they have also an imperative duty to perform, in advocating and protecting, as far as they are able, the interests of the large class who have been educated under their auspices, and are now practising under the authority of their certificate.

To enable the Society the better to perform this duty, they have invited the expression of the views and wishes of their brethren on the nature of the changes which it is desirable to advocate. They have already been favoured with the sentiments of several influential associations both in the metropolis and in the provinces, and they are anxious to possess more accurate information of the wishes of the profession generally, through the channel of their local associations, than the published resolutions of those bodies in relation to the present Bill have enabled them to acquire. And when in possession of this information, they will be prepared to co-operate with their professional brethren in endeavouring to procure such a measure of medical reform, founded upon broad and liberal principles, as will satisfy the reasonable wishes and expectation of the general practitioners themselves, and will secure to the public a continuance of the services of a class of medical men which the public itself has called into existence, and who have become fully qualified for the efficient performance of the duties which they are required to discharge.

THE END.

LONDON :

GILBERT & RIVINGTON, PRINTERS,

ST. JOHN'S SQUARE.

